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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,370	01/02/2002	Harold Shevers JR.	SPMI / 02	9792
26875	7590 11/18/2004		EXAM	INER
WOOD, HERRON & EVANS, LLP 2700 CAREW TOWER			FRIDIE JR, WILLMON	
441 VINE STREET CINCINNATI, OH 45202			ART UNIT	PAPER NUMBER
			3722	

DATE MAILED: 11/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)	
Office Anthrop Occ	10/039,370	SHEVERS, HAROLD	
Office Action Summary	Examiner	Art Unit	
	Willmon Fridie, Jr.	3722	
The MAILING DATE of this communication ap Period for Reply	opears on the cover sheet w	ith the correspondence address	
A SHORTENED STATUTORY PERIOD FOR REP THE MAILING DATE OF THIS COMMUNICATION  - Extensions of time may be available under the provisions of 37 CFR 1 after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a re  - If NO period for reply is specified above, the maximum statutory period  - Failure to reply within the set or extended period for reply will, by statu  - Any reply received by the Office later than three months after the maili earned patent term adjustment. See 37 CFR 1.704(b).  Status	l. 1.136(a). In no event, however, may a integrated in the statutory minimum of thired will apply and will expire SIX (6) MON to the cause the application to become A	reply be timely filed ty (30) days will be considered timely. NTHS from the mailing date of this communication. BANDONED (35 U.S.C. § 133).	
1) Responsive to communication(s) filed on 07	' October 2004 .		
2a) ☐ This action is FINAL. 2b) ☒ T	This action is non-final.		
Since this application is in condition for allow closed in accordance with the practice under Disposition of Claims			
4) Claim(s) 1-15 is/are pending in the application	on.		
4a) Of the above claim(s) is/are withdr	awn from consideration.	1	
5) Claim(s) is/are allowed.			
6) Claim(s) <u>1-15</u> is/are rejected.			
7) Claim(s) is/are objected to.			
8) Claim(s) are subject to restriction and	or election requirement.	•	
Application Papers			
9) The specification is objected to by the Examin			
10) The drawing(s) filed on is/are: a) acc			
Applicant may not request that any objection to t	-,,	• •	
11) The proposed drawing correction filed on		disapproved by the Examiner.	
If approved, corrected drawings are required in r  12) The oath or declaration is objected to by the E	• •		
•	:xammer.		
Priority under 35 U.S.C. §§ 119 and 120	an arianity yandar 05 H 0 O	2 440(-) (-1) (0	
13) Acknowledgment is made of a claim for foreignal All b) Some * c) None of:	on phoney under 35 O.S.C.	§ 119(a)-(d) or (f).	
1.☐ Certified copies of the priority documer	ate have been received		
Certified copies of the priority documer		polication No	
<ol> <li>Copies of the certified copies of the pri application from the International B</li> </ol>	ority documents have been Bureau (PCT Rule 17.2(a)).	received in this National Stage	
* See the attached detailed Office action for a lis	·		
14) Acknowledgment is made of a claim for domes			
a) ☐ The translation of the foreign language posts.  15)☐ Acknowledgment is made of a claim for domes.			
Attachment(s)			
Notice of References Cited (PTO-892)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  Information Disclosure Statement(s) (PTO-1449) Paper No(s)	5) Notice of	Summary (PTO-413) Paper No(s) Informal Patent Application (PTO-152) .	

Application/Control Number: 10/039,370 Page 2

Art Unit: 3722

## **DETAILED ACTION**

## Claim Rejections - 35 USC § 103

- 1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 2. The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:
  - 1. Determining the scope and contents of the prior art.
  - 2. Ascertaining the differences between the prior art and the claims at issue.
  - 3. Resolving the level of ordinary skill in the pertinent art.
  - 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
- 3. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over York in view of Armstrong.
- 4. York discloses a housing(10), a calculator (16) integral with the housing, apertures (34) and all of the claimed invention except for mounting apertures formed on a second edge of the assembly. Armstrong teaches that it is well known in the art to provide mounting apertures(some slotted )on a second edge an assembly. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide York with mounting apertures formed on a second edge of his assembly in the manner as taught by Armstrong in order to provide another mounting option for the assembly.

Application/Control Number: 10/039,370 Page 3

Art Unit: 3722

5. In regard to claim 2, the number of apertures used would have been obvious to one having ordinary skill in the art at the time the invention was made to., since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. St. Regis Paper Co. V Bemis Co., 193USPQ8.

- 6. In regard to claims 3,4 12 and 13 the type of binder used would have been obvious to one having ordinary skill in the art at the time the invention was made since the examiner takes Official Notice of the equivalence of the prior art binder of York, FAA, Jeppesen and the claimed binders for their use in the printed matter and binding art and the selection of any of these known equivalents to would be within the level of ordinary skill in the art.
- 7. In regard to claim 13 it would have been an obvious matter of design choice to use the claimed dimensions, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).
- 8. In regard to claim 15, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Willmon Fridie, Jr. whose telephone number is 703 308 1866. The examiner can normally be reached on M-F (8:30am-6:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea Wellington can be reached on 703 308 2159. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 1148.

Willmon Fridie, Jr. Primary Examiner Art Unit 3722

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